

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.
Hugh Whyte --- January 31, 2023

<p style="text-align: right;">157</p> <p>1 Whyte</p> <p>2 just through hourly fees.</p> <p>3 Q. Was it done that way for Star with</p> <p>4 respect to interim visits?</p> <p>5 A. Yeah, the time was encapsulated in</p> <p>6 the report and it was billed based on the report.</p> <p>7 Q. So the 12,500 to \$18,000 range for</p> <p>8 the smaller dealers and the \$25,000 for the</p> <p>9 larger dealers, how was that paid out?</p> <p>10 A. Usually put the client on a retainer</p> <p>11 and then you would deduct the retainer off of the</p> <p>12 year-end bill. That would be an estimate that we</p> <p>13 would give them, and if the time came out it</p> <p>14 would be more or less, we would adjust it.</p> <p>15 Q. So they would pay that monthly?</p> <p>16 A. As a retainer, yes.</p> <p>17 Q. But the tax preparation work is not</p> <p>18 billed hourly, isn't that correct?</p> <p>19 MS. FITZGERALD: Objection.</p> <p>20 A. If we're doing tax preparation we</p> <p>21 also put the client on a retainer, and if we say,</p> <p>22 hey, it's going to be, let's say we say it's</p> <p>23 going to be 30,000, we'd like to get a retainer</p> <p>24 of 1500 and then at the end we'll bill you the</p> <p>25 other 12,000.</p>	<p style="text-align: right;">158</p> <p>1 Whyte</p> <p>2 Q. So just so I understand, so there's</p> <p>3 two different tasks we're talking about, there's</p> <p>4 tax preparation and then there's also the interim</p> <p>5 visits. Is the tax preparation billed on a flat</p> <p>6 fee or is it billed based on an hourly fee?</p> <p>7 A. Hourly.</p> <p>8 Q. So both tax prep work and interim</p> <p>9 visits are billed hourly?</p> <p>10 A. Right.</p> <p>11 Q. That was the case for Star?</p> <p>12 A. Yes.</p> <p>13 Q. What about a financial statement</p> <p>14 review engagement, is that billed hourly as well?</p> <p>15 A. Yes.</p> <p>16 Q. Are all Voynow dealership clients</p> <p>17 that have a tax engagement billed on a monthly</p> <p>18 basis?</p> <p>19 A. All the dealerships are billed a</p> <p>20 monthly retainer.</p> <p>21 MR. FELSEN: We're going to mark this</p> <p>22 as 80.</p> <p>23 (Exhibit 80, Compilation of invoices,</p> <p>24 was so marked for identification, as of</p> <p>25 this date.)</p>
<p style="text-align: right;">159</p> <p>1 Whyte</p> <p>2 Q. I'm showing you what we have marked</p> <p>3 as Exhibit 80.</p> <p>4 A. Okay.</p> <p>5 Q. This is a compilation of invoices?</p> <p>6 A. Yes.</p> <p>7 Q. So the first few pages are for Star</p> <p>8 Hyundai for monthly retainers for \$500?</p> <p>9 A. Yes.</p> <p>10 Q. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. On the fourth page, Star 00017169, is</p> <p>13 an invoice that doesn't reference the monthly</p> <p>14 retainer, it says accounting services as</p> <p>15 requested, then it says "Progress billing for</p> <p>16 work completed on December 31, 2015, closing of</p> <p>17 the books and preparation of partnership tax</p> <p>18 returns." There's a bill there for 6500. This</p> <p>19 is from March 4th, 2016.</p> <p>20 Why was this -- you had been billing</p> <p>21 for 500 and now there's a substantial increase of</p> <p>22 6500. What is the distinction between the prior</p> <p>23 invoices and this invoice?</p> <p>24 A. The 6500 is a progress bill for the</p> <p>25 work that we completed up to that point. The</p>	<p style="text-align: right;">160</p> <p>1 Whyte</p> <p>2 retainer is strictly just to get some money in</p> <p>3 advance just so we have something in the firm</p> <p>4 before we start the work.</p> <p>5 Then we have a final bill here for</p> <p>6 2965, so the total bill would be 2965, 6500 and</p> <p>7 then the retainers. Those retainers come off</p> <p>8 before these bills are billed.</p> <p>9 Q. If a client isn't given a written</p> <p>10 retainer agreement, how would they know what</p> <p>11 rates they're being billed at?</p> <p>12 A. They would ask us.</p> <p>13 Q. Did you ever have any discussion with</p> <p>14 Star about what the rates are?</p> <p>15 A. No.</p> <p>16 Q. Do you know whether any of your</p> <p>17 partners did?</p> <p>18 A. I don't know.</p> <p>19 Q. Let's turn to, a couple of pages, to</p> <p>20 Star 00017190, it's like two pages after the one</p> <p>21 we just looked at. March 1, 2016 for Star</p> <p>22 Toyota.</p> <p>23 A. I got it.</p> <p>24 Q. So there was an invoice issued on</p> <p>25 that date for a thousand dollars for the monthly</p>

40 (Pages 157 to 160)